

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNILOC 2017 LLC,

Plaintiff,

v.

ATHENAHEALTH, INC.,

Defendant.

Civil Action No. 1:19-cv-11278

COMPLAINT

Plaintiff, Uniloc 2017 LLC (“Uniloc”), for its complaint against defendant, Athenahealth, Inc. (“Athenahealth”), alleges:

THE PARTIES

1. Uniloc is a Delaware limited liability company.
2. Athenahealth is a Delaware corporation having a principal place of business in Watertown, Massachusetts.

JURISDICTION

3. Uniloc brings this action for patent infringement under the patent laws of the United States, 35 U.S.C. § 271, *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

COUNT I

(INFRINGEMENT OF U.S. PATENT NO. 6,324,578)

4. Uniloc incorporates paragraphs 1-3 above by reference.
5. Uniloc is the owner, by assignment, of U.S. Patent No. 6,324,578 (“the ’578 Patent”), entitled METHODS, SYSTEMS AND COMPUTER PROGRAM PRODUCTS FOR MANAGEMENT OF CONFIGURABLE APPLICATION PROGRAMS ON A NETWORK,

which issued on November 27, 2001 on an application filed on December 14, 1998. A copy of the '578 Patent is attached as Exhibit A.

6. Athenahealth operated a centrally hosted Content Distribution Network known as athenaNet.

7. Users downloaded applications from Athenahealth via athenaNet for installation on the user's computer.

8. Athenahealth offered numerous tools via athenaNet that provided the user with user-configurable features, such as Profile and My Notifications in athenacommunicator.

9. Athenahealth used log in and passwords to ensure that athenaNet users were authorized users.

10. AthenaNet allowed a user to provide and exchange information, such as health records.

11. According to www.athenahealth.com, athenaNet provided customers with administrator preferences, such as the ability to set user password parameters and control the amount and kind of information the user can access.

12. Athenahealth infringed, and continues to infringe, at least claim 1 of the '578 Patent by making, using, offering for sale, and/or selling the athenaNet system, which software and associated backend server architecture allow for installing application programs having configurable preferences and authorized users on a server coupled to a network, distributing an application launcher program to a client, obtaining a user set of configurable preferences, obtaining an administrator set of configurable preferences, and executing the application program using the user and administrator sets of configurable preferences responsive to a request from a user.

13. Athenahealth also infringed the '578 Patent by actively inducing the use of the athenaNet system. Athenahealth's customers who used the athenaNet system as Athenahealth instructed infringed the '578 patent, as described above. Athenahealth intentionally instructed its users to infringe, with knowledge they were infringing, by providing instructions with its athenaNet system.

14. Athenahealth also infringed the '578 patent by offering to sell, selling, and/or otherwise commercializing the athenaNet system, which was used to infringe the '578 Patent, and constituted a material part of the invention. Athenahealth knew portions of the software in the athenaNet system that provide the infringing functionality were especially written solely for use to implement what it knew was infringement of the '578 Patent, as described above. Athenahealth also knew those portions had no use, other than for infringement.

15. Athenahealth has been on notice of the '578 Patent since, at the latest, the service of the complaint upon Athenahealth on May 17, 2017, in the previous action between Uniloc and Athenahealth in the Eastern District of Texas. Athenahealth has known and intended (since receiving such notice) that its continued actions would actively induce and contribute to infringement of the '578 Patent.

16. Athenahealth may have infringed the '578 Patent through other software and architecture utilizing the same or reasonably similar functionality, including other versions of the athenaNet system.

17. Uniloc has been damaged by Athenahealth's infringement of the '578 Patent.

COUNT II
(INFRINGEMENT OF U.S. PATENT NO. 7,069,293)

18. Uniloc incorporates by reference paragraphs 1-17 above.

19. Uniloc is the owner, by assignment, of U.S. Patent No. 7,069,293 (“the ’293 Patent”), entitled METHODS, SYSTEMS AND COMPUTER PROGRAM PRODUCTS FOR MANAGEMENT OF APPLICATION PROGRAMS TO A TARGET STATION ON A NETWORK, which issued on June 27, 2006, claiming priority to an application filed on December 14, 1998. A copy of the ’293 Patent is attached as Exhibit B.

20. Athenahealth uses an Apache network management server and one or more Apache on-demand servers to distribute to users and operate its solutions, such as the ePocrates software.

21. Athenahealth infringed, and continues to infringe, at least claim 1 of the ’293 Patent by making, using, offering for sale, and/or selling the athenaNet system, which software and associated backend server architecture allow for providing an application program for management to a network server, specifying source and target directories for the program to be distributed, preparing a file packet associated with the program including a segment configured to initiate registration operations for the application program at a target on-demand server, and distributing the file packet to the target on-demand server to make the program available for use by a client user.

22. Athenahealth has been on notice of the ’293 Patent since, at the latest, the service of the complaint upon Athenahealth on May 17, 2017 in a previous action between Uniloc and Athenahealth in the Eastern District of Texas. By the time of trial, Athenahealth will have known and intended (since receiving such notice) that its continued actions would infringe the ’293 Patent.

23. Athenahealth may have infringed the '293 Patent through other software and architecture utilizing the same or reasonably similar functionality, including other versions of the athenaNet system.

24. Uniloc has been damaged by Athenahealth's infringement of the '293 Patent.

PRAYER FOR RELIEF

Uniloc requests that the Court enter judgment against Athenahealth:

- (A) that Athenahealth has infringed the '578 Patent and the '293 Patent;
- (B) awarding Uniloc its damages suffered as a result of Athenahealth's infringement of the '578 Patent and the '293 Patent;
- (C) awarding Uniloc its costs, attorneys' fees, expenses, and interest, and
- (D) granting Uniloc such further relief as the Court may deem proper.

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38, Uniloc demands trial by jury on all issues so triable.

Date: June 7, 2019

Respectfully submitted,

/s/ Paul J. Hayes

Paul J. Hayes (BBO # 227000)

Kevin Gannon (BBO # 640931)

James J. Foster (BBO #553285)

Aaron Jacobs (BBO # 677545)

PRINCE LOBEL TYE LLP

One International Place, Suite 3700

Boston, MA 02110

Tel: (617) 456-8000

Email: phayes@princelobel.com

Email: kgannon@princelobel.com

Email: jfoster@princelobel.com

Email: ajacobs@princelobel.com

ATTORNEYS FOR THE PLAINTIFF